



STATE OF MISSOURI
DEPARTMENT OF ECONOMIC DEVELOPMENT
REQUEST FOR QUOTATION (RFQ)

TITLE: Audit Services
ISSUE DATE: November 08, 2010
RFQ NUMBER: AM 419 20001100020

BUYER: Julie Fortson
PHONE NO.: (573)522-6369
E-MAIL: Julie.Fortson@ded.mo.gov

RETURN PROPOSAL NO LATER THAN: 11/19/2010 AT 4:00 PM Central Daylight Savings Time.

MAILING INSTRUCTIONS: Print or type **RFQ Number** and **Return Due Date** on the lower left hand corner of the envelope or package. Delivered sealed proposals must be in DED office (301 W High Street, Room 680) by the return date and time.

	(U.S. Mail)		(Courier Service)
RETURN DOCUMENT TO:	MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT P.O. BOX 1157 JEFFERSON CITY MO 65102-0809	or	MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT 301 WEST HIGH STREET, ROOM 630 JEFFERSON CITY MO 65101-1517

CONTRACT PERIOD: Date of award through June 30, 2011

DELIVER SUPPLIES/SERVICES FOB (Free on Board) DESTINATION TO THE FOLLOWING ADDRESS:

Department of Economic Development
301 W. High Street, Suite 680
P.O. Box 1157
Jefferson City, MO 65102

The company identified in the spaces below hereby declares understanding, agreement and certification to compliance to provide the items and/or services, at the prices quoted, in accordance with the specifications and requirements contained herein and the State of Missouri – Terms and Conditions (Revised 02/15/08). The identified company further agrees that upon receipt of an authorized purchase order from the Department of Economic Development or when a Notice of Award is signed and issued by an authorized official of the State of Missouri, a binding contract shall exist between such company and the State of Missouri.

SIGNATURE REQUIRED

DOING BUSINESS AS (DBA) NAME		LEGAL NAME OF ENTITY/INDIVIDUAL FILED WITH IRS FOR THIS TAX ID NO.	
MAILING ADDRESS		IRS FORM 1099 MAILING ADDRESS	
CITY, STATE, ZIP CODE		CITY, STATE, ZIP CODE	
CONTACT PERSON		EMAIL ADDRESS	
PHONE NUMBER		FAX NUMBER	
TAXPAYER ID NUMBER (TIN)	TAXPAYER ID (TIN) TYPE (CHECK ONE) ___ FEIN ___ SSN		VENDOR NUMBER (IF KNOWN)
VENDOR TAX FILING TYPE WITH IRS (CHECK ONE) ___ Corporation ___ Individual ___ State/Local Government ___ Partnership ___ Sole Proprietor ___ Other _____			
(NOTE: LLC IS NOT A VALID TAX FILING TYPE.)			
AUTHORIZED SIGNATURE		DATE	
PRINTED NAME		TITLE	

Audit Services RFQ

Purpose:

- 1.1.1 This document constitutes a request for competitive bids for the acquisition of an annual financial audit of the Life Sciences Research Trust Fund in accordance with the requirements and provisions stated herein. The audit shall review receipts and disbursements from the fund and address conformance with statutes governing the LSRB funds. The audit period shall be July 1, 2009 through June 30, 2010.

2. Background:

2.1 General Information:

- 2.1.1 In 2003, the Missouri General Assembly enacted House Bill 688 which was signed into law by Governor Bob Holden. The legislation created the Life Sciences Research Board and the Missouri Life Sciences Research Trust Fund to:

- Enhance research capacity in life sciences to better serve the health and welfare of Missouri citizens;
- Promote Missouri as a center of life science research and development by building on the success of existing Missouri research institutions;
- Create and attract new research and development institutions; and
- Transform research into commercial life science technology

- 2.1.2 Per requirements of Section 196.1118 of the Revised Statutes of Missouri:

- The life sciences research board shall make provision for and secure the state auditor or outside public accounting firm an annual audit of its financial affairs and the moneys expended from the life sciences research trust fund.
- <http://www.moga.mo.gov/statutes/c100-199/1960001118.htm>

3. Contractual Requirements:

3.1 Contract:

- 3.1.1 A binding contract shall consist of: (1) the signed RFQ, amendments thereto, and (2) acceptance of the contract by written notification from the LSRB. All Exhibits and Attachments have been incorporated into the contract by reference.
- 3.1.2 The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein.
- 3.1.3 Any change to the contract, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the contractor and the LSRB or by a modified purchase order prior to the effective date of such modification. The contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification to the contract.

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3.2 Contract Period:

- 3.2.1 The original contract period shall be the date of award through June 30, 2010. The contract shall not bind, nor purport to bind, the state for any contractual commitment in excess of the original contract period. All terms and conditions, requirements and specifications of the contract, including prices, shall remain the same and apply during the original contract period.

3.3 Price:

- 3.3.1 All prices shall be firm, fixed and as indicated in Exhibit A (Pricing Pages). The state shall not pay nor be liable for any other additional costs including but not limited to taxes, shipping charges, insurance, interest, penalties, termination payments, attorney fees, liquidated damages, etc.

3.4 Invoicing and Payment Requirements:

- 3.4.1 The audit must be completed by December 24, 2010. The contractor shall provide the LSRB with six (6) copies of the finished audit.
- 3.4.2 Payment for audit services shall be made upon review and acceptance of the audit report by DED.
- 3.4.3 The contractor shall submit an itemized invoice to the address designated by the DED.

3.5 Travel Expenses:

- 3.5.1 The contractor shall be reimbursed for actual and reasonable travel expenses incurred while conducting the audit, in accordance with the following standards:
- 1) Travel Expenses: If services are requested to be provided on-site at the agency's facility, the contractor shall be reimbursed for actual and reasonable expenses in accordance with the Office of Administration's travel regulations (<http://www.sos.state.mo.us/adrules/csr/current/1csr/1c10-11.pdf>). The State of Missouri reserves the right to assess the reasonableness of the contractor's travel expenses in accordance with the Maximum Per Diem Rates for lodging, meals and incidental expenses specified for the state of Missouri on the General Services Administration (GSA) web site, <http://oa.mo.gov/travel/>. At the request of the agency, the contractor shall submit copies of the original receipts for lodging, meals, airfare, mileage etc., to the agency. In the event the contractor's travel expenses for lodging and meals are determined by the State of Missouri to be unreasonable, the State of Missouri reserves the right to reimburse the contractor in accordance with the maximum rates specified for Missouri on the GSA web site.
 - 2) Travel time from the contractor's office or residence to the state agency facility and travel time from the state agency facility to the contractor's office or residence shall not be considered billable time. The contractor's travel time is not considered billable time against the initial engagement or any subsequent engagement.
 - 3) Other than the payments and reimbursements specified above, no other payments or reimbursements shall be made to the contractor.

3.6 Liabilities:

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3.6.1 The contractor shall be responsible for any and all personal injury (including death) or property damage as a result of the contractor's negligence involving any equipment or service provided under the terms and conditions, requirements and specifications of the contract. In addition, the contractor assumes the obligation to save the State of Missouri, including its agencies, employees, and assignees, from every expense, liability, or payment arising out of such negligent act.

- a. The contractor also agrees to hold the State of Missouri, including its agencies, employees, and assignees, harmless for any negligent act or omission committed by any person employed by or under the supervision of the contractor under the terms of the contract.
- b. The contractor shall not be responsible for any injury or damage occurring as a result of any negligent act or omission committed by the State of Missouri, including its agencies, employees, and assignees.
- c. Under no circumstances shall the contractor be liable for any of the following: (1) third party claims against the state for losses or damages (other than those listed above); or (2) economic consequential damages (including lost profits or savings) or incidental damages, even if the contractor is informed of their possibility.

3.7 Insurance:

3.7.1 The contractor shall understand and agree that the State of Missouri cannot save and hold harmless and/or indemnify the contractor or employees against any liability incurred or arising as a result of any activity of the contractor or any activity of the contractor's employees related to the contractor's performance under the contract. Therefore, the contractor must acquire and maintain adequate liability insurance in the form(s) and amount(s) sufficient to protect the State of Missouri, its agencies, its employees, its clients, and the general public against any such loss, damage and/or expense related to his/her performance under the contract. The insurance shall include an endorsement that adds the State of Missouri as an additional insured.

3.8 Termination:

3.8.1 The LSRB reserves the right to terminate the contract at any time, for the convenience of the State of Missouri, without penalty or recourse, by giving written notice to the contractor at least thirty (30) calendar days prior to the effective date of such termination. The contractor shall be entitled to receive just and equitable compensation for services and/or supplies delivered to and accepted by the State of Missouri pursuant to the contract prior to the effective date of termination.

3.9 Assignment:

3.9.1 The contractor shall not transfer any interest in the contract, whether by assignment or otherwise, without the prior written consent of the LSRB.

3.9.2 The contractor shall not be allowed to sub-contract for provision of services.

3.10 Contractor's Personnel:

3.10.1 The contractor understands and agrees that by signing the (RFQ document), they certify the following:

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- a. The contractor shall only utilize personnel authorized to work in the United States in accordance with applicable federal and state laws. This includes but is not limited to the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and INA Section 274A.
- b. If the contractor is found to be in violation of this requirement or the applicable state, federal and local laws and regulations, and if the State of Missouri has reasonable cause to believe that the contractor has knowingly employed individuals who are not eligible to work in the United States, the state shall have the right to cancel the contract immediately without penalty or recourse and suspend or debar the contractor from doing business with the state. The state may also withhold up to twenty-five percent of the total amount due to the contractor.
- c. The contractor agrees to fully cooperate with any audit or investigation from federal, state, or local law enforcement agencies.
- d. If the contractor meets the definition of a business entity as defined in RSMo 285.525 pertaining to RSMo 285.530, the contractor shall maintain enrollment and participation in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the contracted services included herein. If the contractor's business status changes during the life of the contract to become a business entity as defined in RSMo 285.525 pertaining to RSMo 285.530, then the contractor shall, prior to the performance of any services as a business entity under the contract:
 - 1.) Enroll and participate in the E-Verify (see below for E-Verify contact information) federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services required herein; AND
 - 2.) Provide to the Department of Economic Development the documentation required in Exhibit D, Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization affirming said company's/individual's enrollment and participation in the E-Verify federal work authorization program; AND
 - 3.) Submit to the Department of Economic Development a completed, notarized Affidavit of Work Authorization provided in Exhibit D, Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization.

3.11 Substitution of Personnel:

- 3.11.1 The contractor agrees and understands that the State of Missouri's agreement to the contract is predicated in part on the utilization of the specific key individual(s) and/or personnel qualifications as identified. Therefore, the contractor agrees that no substitution of such specific key individual(s) and/or personnel qualifications shall be made without the prior written approval of the state agency. The contractor further agrees that any substitution made pursuant to this paragraph must be equal or better than originally proposed and that the state agency's approval of a substitution shall not be construed as an acceptance of the substitution's performance potential. The State of Missouri agrees that an approval of a substitution will not be unreasonably withheld.

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- 3.11.2 At the agency's request and with reasonable justification, the contractor shall provide immediate replacement of any of the contractor's staff providing services under the contract if deemed to be in the best interests of the agency.

4. PERFORMANCE REQUIREMENTS

4.1 General Requirements:

- 4.1.1 Unless otherwise specified herein, the contractor shall furnish all material, labor, facilities, equipment, and supplies necessary to perform the services required herein.
- 4.1.2 The contractor shall be required to perform an annual financial audit of the Life Sciences Research Trust Fund.
- 4.1.3 The audit shall review receipts and disbursements from the fund and address conformance with statutes governing the LSRB funds.
- 4.1.4 The audit period shall be July 1, 2009 through June 30, 2010.
- 4.1.5 The audit shall be prepared in such a format that it can be utilized to satisfy provisions of Section 7.020 of House Bill 2007 (2010) – the Department of Economic Development budget bill. <http://www.house.mo.gov/billtracking/bills101/biltxt/truly/HB2007T.htm>
- 4.1.6 The LSRB will provide the successful bidder with a description of each grant awarded and the amount of the grant. The LSRB will grant access to applicable financial records to perform the required audit.
- 4.1.7 The contractor shall coordinate efforts with the LSRB.
- 4.1.8 Bidders with current or past contractual or other relationships with LSRB or any recipients of funding will disclose such relationships in their submission information document. The LSRB will consider such relationships when choosing a contractor. Attachment C is a list of funds recipients.

5. PROPOSAL SUBMISSION INFORMATION

5.1 Submission of Proposals:

- 5.1.1 ELECTRONIC SUBMISSION OF PROPOSALS THROUGH THE ON-LINE BIDDING/VENDOR REGISTRATION SYSTEM WEB SITE IS NOT AVAILABLE FOR THIS RFQ.
- 5.1.2 When submitting a proposal, the offeror should include three (3) additional copies along with their original proposal. The front cover of the original proposal should be labeled "original" and the front cover of all copies should be labeled "copy".
- a. The offeror should ensure all copies are identical to the offeror's original proposal. In case of discrepancy, the original hardcopy proposal document shall govern.
 - b. Recycled Products - The State of Missouri recognizes the limited nature of our resources and the leadership role of government agencies in regard to the environment. Accordingly, the

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offeror is requested, but not required, to print the proposal double sided using recycled paper, if possible, and minimize or eliminate the use of non-recyclable materials such as plastic report covers, plastic dividers, vinyl sleeves, and binding.

- c. Open Records - Pursuant to Section RSMo 610.021, the offeror's proposal shall be considered an open record after a contract is executed or all proposals are rejected. At that time, all proposals are scanned and e-mailed to other bidders for viewing.

- 1) The scanned information will be available upon request. Therefore, the offeror is advised not to include any information in the proposal that the offeror does not want to be viewed by the public, including personal identifying information such as social security numbers.

- 5.1.3 To facilitate the evaluation process, the offeror is encouraged to organize their proposal into sections that correspond with the individual evaluation categories described herein. The offeror is cautioned that it is the offeror's sole responsibility to submit information related to the evaluation categories and that the State of Missouri is under no obligation to solicit such information if it is not included with the proposal. The offeror's failure to submit such information may cause an adverse impact on the evaluation of the proposal.

- a. Each section should be titled with each individual evaluation category and all material related to that category should be included therein.
- b. The proposal should be page numbered.
- c. The signed page one from the original RFQ and all signed amendments should be placed at the beginning of the proposal.

- 5.1.4 Questions Regarding the RFQ - The offeror and the offeror's agents (including subcontractors, employees, consultants, or anyone else acting on their behalf) must direct all of their questions or comments regarding the RFQ, the evaluation, etc., to the buyer of record indicated on the first page of this RFQ. Only those questions which necessitate a change to the RFQ will be addressed via an amendment to the RFQ. Written records of the questions and answers will not be maintained.

- a. The buyer may be contacted via e-mail or phone as shown on the first page, or via facsimile to 573-522-5005.
- b. The offeror is advised that any questions received less than ten calendar days prior to the RFQ opening date may not be addressed.
- c. Except as stated below, the offeror and the offeror's agents may not contact any other state employee regarding the RFQ, the evaluation, etc., during the solicitation and evaluation process.
 - 1) Inappropriate contacts are grounds for suspension and/or exclusion from specific procurements.
 - 2) Offeror's and their agents who have questions regarding this matter should contact the buyer.

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6. Evaluation and Award Process:

6.1.1 After determining that a proposal satisfies the mandatory requirements stated in the Request for Proposal, the evaluator(s) shall use both objective analysis and subjective judgment in conducting a comparative assessment of the proposal in accordance with the evaluation criteria stated below:

a. Cost	50%
b. Experience and Reliability.....	20%
c. Expertise of Personnel.....	20%
d. Method of Performance	10%

6.1.2 After an initial screening process, a question and answer conference or interview may be conducted with the offeror, if deemed necessary by the Department of Economic Development. In addition, the offeror may be asked to make an oral presentation of their proposal during the conference. Attendance cost at the conference shall be at the offeror's expense. All arrangements and scheduling shall be coordinated by the Department of Economic Development.

7.1 Evaluation of Cost:

7.1.1 Objective Evaluation of Cost – The cost evaluation shall be based on a total cost determined using the firm fixed prices stated on the Pricing Page.

8.1 Evaluation of Offeror's Experience, Expertise of Proposed Personnel and Reliability:

Experience and reliability of the offeror's organization will be considered subjectively in the evaluation process. Therefore, the offeror is advised to submit information concerning the offeror's organization and information documenting the offeror's experience in past performances, especially those performances related to the requirements of this RFQ.

8.1.1 Offeror Information - The offeror should provide information about the offeror's organization on Exhibit B.1.

8.1.2 Experience - The offeror should provide information related to previous and current services/contracts of the offeror or offeror's proposed subcontractor where performance was similar to the required services of this RFQ. The information may be shown on Exhibit B.2 or in a similar manner.

8.1.3 Personnel Expertise - The qualifications of the personnel proposed by the offeror to perform the requirements of this RFQ, will be subjectively evaluated. Therefore, the offeror should submit detailed information related to the experience and qualifications, including education and training, of proposed personnel. The offeror should utilize Exhibit B.3 for summarizing the personnel information for proposed key personnel and may also submit resumes with additional information.

- a. The information provided should be structured to emphasize relevant qualifications and experience of the personnel in completing contracts/performing services of a similar size and scope to the requirements of this document.
- b. Information submitted should clearly identify previous experience of the person in performing similar services and should include beginning and ending dates, a description of the role of the person in such performances, results of the services performed, and whether the person is proposed for the same services for the State of Missouri.

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- 8.1.4 Personnel Qualifications - If personnel are not yet hired, the offeror should provide detailed descriptions of the required employment qualifications; and detailed job descriptions of the position to be filled, including the type of person proposed to be hired.

9.1 Evaluation of Method of Performance:

Proposals will be subjectively evaluated based on the offeror's plan for performing the requirements of the RFQ. Therefore, the offeror should present information which demonstrates the method or manner in which the offeror proposes to satisfy these requirements and which confirms the offeror's ability to satisfy the requirements. The language of the narrative should be straightforward and limited to facts, solutions to problems, and plans of action.

- 9.1.1 Description of Proposed Services – Exhibit C is provided for the offeror's use in providing information about the proposed method of performance. Unless a particular requirement is not conducive to elaboration, each paragraph within the Contractual Requirements may be addressed by writing a description of how, when, by whom, why, and where the requirement will be satisfied and otherwise detailing the offeror's understanding of the requirements and ability and methodology to successfully perform. When responding to the appropriate provisions in the Contractual Requirements, the offeror should identify the paragraph or subparagraph number and then provide the additional elaboration describing the offeror's plans for performing or meeting the requirement.
- 9.1.2 Organizational Chart - The offeror should provide an organizational chart showing the staffing and lines of authority for the key personnel to be used. The organizational chart should include (1) The relationship of service personnel to management and support personnel, (2) The names of the personnel and the working titles of each, and (3) Any proposed subcontractors including management, supervisory, and other key personnel.
- 9.1.3 Business Compliance - The offeror must be in compliance with the laws regarding conducting business in the State of Missouri. The offeror certifies by signing the signature page of this original document and any amendment signature page(s) that the offeror and any proposed subcontractors either are presently in compliance with such laws or shall be in compliance with such laws prior to any resulting contract award. The offeror shall provide documentation of compliance upon request by the Department of Economic Development. The compliance to conduct business in the state shall include, but not necessarily be limited to:
- a. Registration of business name (if applicable)
 - b. Certificate of authority to transact business/certificate of good standing (if applicable)
 - c. Taxes (e.g., city/county/state/federal)
 - d. State and local certifications (e.g., professions/occupations/activities)
 - e. Licenses and permits (e.g., city/county license, sales permits)
 - f. Insurance (e.g., worker's compensation/unemployment compensation)

The rest of this page is intentionally blank.

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EXHIBIT A **Cost (Pricing Pages)**

5.1 REQUIRED PRICING

The offeror shall provide a firm, fixed price for each of the following items for providing the services in accordance with the provisions and requirements of this RFQ. All costs associated with providing the required services shall be included in the stated price(s).

Line Item	Firm fixed price per audit for LSRB for the period of July 1, 2009 through June 30, 2010. The audits must be submitted no later than December 24, 2010.	
001	Annual, audit report	

EXHIBIT B
B.1 OFFEROR INFORMATION

The offeror should provide the following information about the offeror's organization:

- a. Provide a brief company history, including the founding date and number of years in business as currently constituted.
- b. Describe the nature of the offeror's business, type of services performed, etc. Identify the offeror's website address, if any.
- c. Describe the structure of the organization including any board of directors, partners, top departmental management, corporate organization, corporate trade affiliations, any parent/subsidiary affiliations with other firms, etc.

EXHIBIT B**B.2 CURRENT/PRIOR EXPERIENCE**

The offeror should provide a list of and a short summary of information regarding the offeror's current contracts/clients. The offeror may copy and complete this form for each reference being submitted as demonstration of the offeror and subcontractor's current/prior experience. In addition, the offeror is advised that if the contact person listed for the reference is unable to be reached during the evaluation, the listed experience may not be considered.

Offeror Name : _____	
Reference Information (Current/Prior Services Performed For:)	
Name of Reference Company:	
Address of Reference Company <input type="checkbox"/> Street Address <input type="checkbox"/> City, State, Zip	
Reference Contact Person Information: <input type="checkbox"/> Name <input type="checkbox"/> Phone # <input type="checkbox"/> E-mail Address	
Dates of Services:	
If service/contract has terminated, specify reason:	
Dollar Value of Services	
Description of Services Performed	

As the contact person for the reference provided above, my signature below verifies that the information presented on this form is accurate. I am available for contact by the State of Missouri for additional discussions regarding my/my company's association with the offeror referenced above:

Signature of Reference Contact Person Date of Signature

EXHIBIT B

B.3 PERSONNEL EXPERTISE SUMMARY

(Complete this Exhibit for personnel proposed. Resumes for key personnel may also be provided)

Personnel	Background and Expertise of Personnel and Planned Duties
1. _____ (Name) _____ (Title) _____ (Proposed Role/Function)	
2. _____ (Name) _____ (Title) _____ (Proposed Role/Function)	
3. _____ (Name) _____ (Title) _____ (Proposed Role/Function)	
4. _____ (Name) _____ (Title) _____ (Proposed Role/Function)	
5. _____ (Name) _____ (Title) _____ (Proposed Role/Function)	
6. _____ (Name) _____ (Title) _____ (Proposed Role/Function)	

EXHIBIT C

5.4 METHOD OF PERFORMANCE

The offeror should use this Exhibit, or any format desired, to present a written plan for performing the requirements specified in this Request for Proposal.

1. The offeror should provide a description of how the offeror will meet all the requirements herein. Exhibit D is provided for the offeror's use in providing information about the proposed method of performance. Unless a particular requirement is not conducive to elaboration, each paragraph within the Contractual Requirements may be addressed by writing a description of how, when, by whom, why, and where the requirement will be satisfied and otherwise detailing the offeror's understanding of the requirements and ability and methodology to successfully perform the requirement. When responding to the appropriate provisions in the Contractual Requirements, the offeror should identify the paragraph or subparagraph number and then provide the additional elaboration describing the offeror's plans for performing or meeting the requirement.
2. Organizational Chart - The offeror should provide an organizational chart showing the staffing and lines of authority for the key personnel to be used. The organizational chart should include (1) The relationship of service personnel to management and support personnel, (2) The names of the personnel and the working titles of each, and (3) Any proposed subcontractors including management, supervisory, and other key personnel.
 - The organizational chart should outline the team proposed for this project and the relationship of those team members to each other and to the management structure of the offeror's organization.
3. Along with a detailed organizational chart, the offeror should describe the following:
 - How services performed under the contract will be managed, controlled, and supervised in order to ensure satisfactory contract performance.
 - Total Personnel Resources - The offeror should provide information that documents the quality and quantity of resources to be devoted to ensure completion of all requirements on time and on target. If the offeror has other ongoing contracts that also utilize personnel resources, the offeror should document how sufficient resources will be dedicated to the State of Missouri.

EXHIBIT D

**BUSINESS ENTITY CERTIFICATION, ENROLLMENT DOCUMENTATION,
AND AFFIDAVIT OF WORK AUTHORIZATION**

BUSINESS ENTITY CERTIFICATION:

The bidder must certify their current business status by completing either Box A or Box B or Box C on this Exhibit.

BOX A: To be completed by a non-business entity as defined below.

BOX B: To be completed by a business entity who has not yet completed and submitted documentation pertaining to the federal work authorization program as described at http://www.dhs.gov/xprevprot/programs/gc_1185221678150.shtm.

BOX C: To be completed by a business entity who has current work authorization documentation on file with a Missouri state agency including Division of Purchasing and Materials Management.

Business entity, as defined in section 285.525, RSMo, pertaining to section 285.530, RSMo, is any person or group of persons performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood. The term “**business entity**” shall include but not be limited to self-employed individuals, partnerships, corporations, contractors, and subcontractors. The term “**business entity**” shall include any business entity that possesses a business permit, license, or tax certificate issued by the state, any business entity that is exempt by law from obtaining such a business permit, and any business entity that is operating unlawfully without such a business permit. The term “**business entity**” shall not include a self-employed individual with no employees or entities utilizing the services of direct sellers as defined in subdivision (17) of subsection 12 of section 288.034, RSMo.

Note: Regarding governmental entities, business entity includes Missouri schools, Missouri universities (other than stated in Box C), out of state agencies, out of state schools, out of state universities, and political subdivisions. A business entity does not include Missouri state agencies and federal government entities.

BOX A – CURRENTLY NOT A BUSINESS ENTITY

I certify that _____ (Company/Individual Name) **DOES NOT CURRENTLY MEET** the definition of a business entity, as defined in section 285.525, RSMo, pertaining to section 285.530, RSMo, as stated above, because: (check the applicable business status that applies below)

- ☐ I am a self-employed individual with no employees; **OR**
☐ The company that I represent utilizes the services of direct sellers as defined in subdivision (17) of subsection 12 of section 288.034, RSMo.

I certify that I am not an alien unlawfully present in the United States and if _____ (Company/Individual Name) is awarded a contract for the services requested herein under AM 419 20001100020 and if the business status changes during the life of the contract to become a business entity as defined in section 285.525, RSMo, pertaining to section 285.530, RSMo, then, prior to the performance of any services as a business entity, _____ (Company/Individual Name) agrees to complete Box B, comply with the requirements stated in Box B and provide the Missouri Department of Economic Development with all documentation required in Box B of this exhibit.

Authorized Representative's Name
(Please Print)

Authorized Representative's Signature

Company Name (if applicable)

Date

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EXHIBIT D, continued

BOX B – CURRENT BUSINESS ENTITY STATUS

(Complete the following if you DO NOT have the E-Verify documentation and a current Affidavit of Work Authorization already on file with the State of Missouri. If completing Box B, do not complete Box C.)

I certify that _____ (Business Entity Name) **MEETS** the definition of a business entity as defined in section 285.525, RSMo, pertaining to section 285.530.

Authorized Business Entity
Representative's Name
(Please Print)

Authorized Business Entity
Representative's Signature

Business Entity Name

Date

E-Mail Address

As a business entity, the bidder must perform/provide the following. The bidder should check each to verify completion/submission:

- ☐ Enroll and participate in the E-Verify federal work authorization program (Website: http://www.dhs.gov/xprevprot/programs/gc_1185221678150.shtm; Phone: 888-464-4218; Email: e-verify@dhs.gov) with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services required herein; AND
- ☐ Provide documentation affirming said company's/individual's enrollment and participation in the E-Verify federal work authorization program. Documentation shall include EITHER the E-Verify Employment Eligibility Verification page OR a page from the E-Verify Memorandum of Understanding (MOU) listing the bidder's name and the MOU signature page completed and signed, at minimum, by the bidder and the Department of Homeland Security – Verification Division. If the signature page of the MOU lists the bidder's name and company ID, then no additional pages of the MOU must be submitted; AND
- ☐ Submit a completed, notarized Affidavit of Work Authorization provided on the next page of this Exhibit.

EXHIBIT D, continued

AFFIDAVIT OF WORK AUTHORIZATION:

The bidder who meets the section 285.525, RSMo, definition of a business entity must complete and return the following Affidavit of Work Authorization.

Comes now _____ (Name of Business Entity Authorized Representative) as _____ (Position/Title) first being duly sworn on my oath, affirm _____ (Business Entity Name) is enrolled and will continue to participate in the E-Verify federal work authorization program with respect to employees hired after enrollment in the program who are proposed to work in connection with the services related to contract(s) with the State of Missouri for the duration of the contract(s), if awarded in accordance with subsection 2 of section 285.530, RSMo. I also affirm that _____ (Business Entity Name) does not and will not knowingly employ a person who is an unauthorized alien in connection with the contracted services provided under the contract(s) for the duration of the contract(s), if awarded.

In Affirmation thereof, the facts stated above are true and correct. (The undersigned understands that false statements made in this filing are subject to the penalties provided under section 575.040, RSMo.)

Authorized Representative's Signature

Printed Name

Title

Date

E-Mail Address

E-Verify Company ID Number

Subscribed and sworn to before me this _____ of _____. I am
(DAY) (MONTH, YEAR)
commissioned as a notary public within the County of _____, State of
(NAME OF COUNTY)
_____, and my commission expires on _____.
(NAME OF STATE) (DATE)

Signature of Notary

Date

EXHIBIT D, continued

BOX C – AFFIDAVIT ON FILE - CURRENT BUSINESS ENTITY STATUS

(Complete the following if you have the E-Verify documentation and a current Affidavit of Work Authorization already on file with the State of Missouri. If completing Box C, do not complete Box B.)

I certify that _____ (Business Entity Name) **MEETS** the definition of a business entity as defined in section 285.525, RSMo, pertaining to section 285.530, RSMo, and have enrolled and currently participates in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services related to contract(s) with the State of Missouri. We have previously provided documentation to a Missouri state agency or public university that affirms enrollment and participation in the E-Verify federal work authorization program. The documentation that was previously provided included the following.

- ✓ The E-Verify Employment Eligibility Verification page OR a page from the E-Verify Memorandum of Understanding (MOU) listing the bidder's name and the MOU signature page completed and signed by the bidder and the Department of Homeland Security – Verification Division.
- ✓ A current, notarized Affidavit of Work Authorization (must be completed, signed, and notarized within the past twelve months).

Name of **Missouri State Agency** or **Public University*** to Which Previous E-Verify Documentation Submitted: _____

(*Public University includes the following five schools under chapter 34, RSMo: Harris-Stowe State University – St. Louis; Missouri Southern State University – Joplin; Missouri Western State University – St. Joseph; Northwest Missouri State University – Maryville; Southeast Missouri State University – Cape Girardeau.)

Date of Previous E-Verify Documentation Submission: _____

Previous **Bid/Contract Number** for Which Previous E-Verify Documentation Submitted:

(if known)

Authorized Business Entity
Representative's Name
(Please Print)

Authorized Business Entity
Representative's Signature

E-Verify MOU Company ID
Number

E-Mail Address

Business Entity Name

Date

FOR STATE USE ONLY:

Documentation Verification Completed By:

Buyer

Date

EXHIBIT E
STATE OF MISSOURI

TERMS AND CONDITIONS -- REQUEST FOR QUOTATION

1. TERMINOLOGY/DEFINITIONS

Whenever the following words and expressions appear in a Request for Quotation (RFQ) document or any amendment thereto, the definition or meaning described below shall apply.

- a. Agency and/or State Agency means the statutory unit of state government in the State of Missouri for which the equipment, supplies, and/or services are being purchased by the Division of Purchasing and Materials Management (DED). The agency is also responsible for payment.
- b. Amendment means a written, official modification to an RFQ or to a contract.
- c. Attachment applies to all forms which are included with an RFQ to incorporate any informational data or requirements related to the performance requirements and/or specifications.
- d. Bid Target Date and Time and similar expressions mean the deadline required by the RFQ for the receipt of bids.
- e. Bidder means the person or organization that responds to an RFQ by submitting a bid with prices to provide the equipment, supplies, and/or services as required in the RFQ document.
- f. Buyer means the procurement staff member of the DED. The Contact Person as referenced herein is usually the Buyer.
- g. Contract means a legal and binding agreement between two or more competent parties, for a consideration for the procurement of equipment, supplies, and/or services.
- h. Contractor means a person or organization who is a successful bidder as a result of an RFQ and who enters into a contract.
- i. Exhibit applies to forms which are included with an RFQ for the bidder to complete and submit with the bid prior to the specified target date and time.
- j. Request for Quotation (RFQ) means the solicitation document issued by the DED to potential bidders for the purchase of equipment, supplies, and/or services as described in the document. The definition includes these Terms and Conditions as well as all Pricing Pages, Exhibits, Attachments, and Amendments thereto.
- k. May means that a certain feature, component, or action is permissible, but not required.
- l. Must means that a certain feature, component, or action is a mandatory condition. Failure to provide or comply will result in a bid being considered non-responsive.
- m. Pricing Page(s) applies to the form(s) on which the bidder must state the price(s) applicable for the equipment, supplies, and/or services required in the RFQ. The pricing pages must be completed and submitted by the bidder with the bid prior to the specified bid target date and time.
- n. RSMo (Revised Statutes of Missouri) refers to the body of laws enacted by the Legislature which govern the operations of all agencies of the State of Missouri. Chapter 34 of the statutes is the primary chapter governing the operations of DED.
- o. Shall has the same meaning as the word must.
- p. Should means that a certain feature, component and/or action is desirable but not mandatory.

2. APPLICABLE LAWS AND REGULATIONS

- a. The contract shall be construed according to the laws of the State of Missouri. The contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract to the extent that the same may be applicable.
- b. To the extent that a provision of the contract is contrary to the Constitution or laws of the State of Missouri or of the United States, the provisions shall be void and unenforceable. However, the balance of the contract shall remain in force between the parties unless terminated by consent of both the contractor and the DED.
- c. The contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations.
- d. The contractor must timely file and pay all Missouri sales, withholding, corporate and any other required Missouri tax returns and taxes, including interest and additions to tax.

Audit Services RFQ

- e. The exclusive venue for any legal proceeding relating to or arising out of the RFQ or resulting contract shall be in the Circuit Court of Cole County, Missouri.
- f. The contractor shall only utilize personnel authorized to work in the United States in accordance with applicable federal and state laws and Executive Order 07-13 for work performed in the United States.

3. OPEN COMPETITION/REQUEST FOR QUOTATION DOCUMENT

- a. It shall be the bidder's responsibility to ask questions, request changes or clarification, or otherwise advise the DED if any language, specifications or requirements of an RFQ appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the RFQ to a single source. Any and all communication from bidders regarding specifications, requirements, competitive bid process, etc., must be directed to the buyer from the DED, unless the RFQ specifically refers the bidder to another contact. Such communication should be received at least five calendar days prior to the official bid target date.
- b. Every attempt shall be made to ensure that the bidder receives an adequate and prompt response. However, in order to maintain a fair and equitable bid process, all bidders will be advised, via the issuance of an amendment to the RFQ, of any relevant or pertinent information related to the procurement. Therefore, bidders are advised that unless specified elsewhere in the RFQ, any questions received less than five calendar days prior to the RFQ target date may not be answered.
- c. Bidders are cautioned that the only official position of the State of Missouri is that which is issued by the DED in the RFQ or an amendment thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response or statement.
- d. The DED monitors all procurement activities to detect any possibility of deliberate restraint of competition, collusion among bidders, price-fixing by bidders, or any other anticompetitive conduct by bidders which appears to violate state and federal antitrust laws. Any suspected violation shall be referred to the Missouri Attorney General's Office for appropriate action.
- e. The DED reserves the right to officially amend or cancel an RFQ after issuance.

4. PREPARATION OF BIDS

- a. Bidders must examine the entire RFQ carefully. Failure to do so shall be at bidder's risk.
- b. Unless otherwise specifically stated in the RFQ, all specifications and requirements constitute minimum requirements. All bids must meet or exceed the stated specifications and requirements.
- c. Unless otherwise specifically stated in the RFQ, any manufacturer names, trade names, brand names, information and/or catalog numbers listed in a specification and/or requirement are for informational purposes only and are not intended to limit competition. The bidder may offer any brand which meets or exceeds the specification for any item, but must state the manufacturer's name and model number for any such brands in the bid. In addition, the bidder shall explain, in detail, (1) the reasons why the proposed equivalent meets or exceeds the specifications and/or requirements and (2) why the proposed equivalent should not be considered an exception thereto. Bids which do not comply with the requirements and specifications are subject to rejection without clarification.
- d. Bids lacking any indication of intent to bid an alternate brand or to take an exception shall be received and considered in complete compliance with the specifications and requirements as listed in the RFQ.
- e. In the event that the bidder is an agency of state government or other such political subdivision which is prohibited by law or court decision from complying with certain provisions of an RFQ, such a bidder may submit a bid which contains a list of statutory limitations and identification of those prohibitive clauses which will be modified via a clarification conference between the DED and the bidder, if such bidder is selected for contract award. The clarification conference will be conducted in order to agree to language that reflects the intent and compliance of such law and/or court order and the RFQ. Any such bidder needs to include in the bid, a complete list of statutory references and citations for each provision of the RFQ which is affected by this paragraph.
- f. All equipment and supplies offered in a bid must be new, of current production, and available for marketing by the manufacturer unless the RFQ clearly specifies that used, reconditioned, or remanufactured equipment and supplies may be offered.
- g. Prices shall include all packing, handling and shipping charges FOB destination, freight prepaid and allowed unless otherwise specified in the RFQ.
- h. Bids, including all prices therein, shall remain valid for 90 days from bid target date unless otherwise indicated. If the bid is accepted, the entire bid, including all prices, shall be firm for the specified contract period.

Audit Services RFQ

- i. Any foreign bidder not having an Employer Identification Number assigned by the United States Internal Revenue Service (IRS) must submit a completed IRS Form W-8 prior to or with the submission of their bid in order to be considered for award.

5. SUBMISSION OF BIDS

- a. Bids shall be submitted by a hard copy delivered to the DED office. All bids must (1) be submitted by a duly authorized representative of the bidder's organization, (2) contain all information required by the RFQ, and (3) be priced as required. Delivered bids should be received in the DED office prior to the target time and date specified in the RFQ.
- b. The envelope or container containing a bid should be clearly marked on the outside with (1) the official RFQ number and (2) the official target date and time. Different bids should not be placed in the same envelope, although copies of the same bid may be placed in the same envelope.
- c. A bid which has been delivered to the DED office, may be modified by signed, written notice which has been received by the DED prior to the official target date and time specified. A bid may also be modified in person by the bidder or its authorized representative, provided proper identification is presented before the official target date and time. Telephone or telegraphic requests to modify a bid shall not be honored.
- d. A bid which has been delivered to the DED office, may only be withdrawn by a signed, written notice or facsimile which has been received by the DED prior to the official target date and time specified. A bid may also be withdrawn in person by the bidder or its authorized representative, provided proper identification is presented before the official target date and time. Telephone, e-mail, or telegraphic requests to withdraw a bid shall not be honored.
- e. Bidders delivering a hard copy bid to DED must sign and return the RFQ cover page or, if applicable, the cover page of the last amendment thereto in order to constitute acceptance by the bidder of all RFQ terms and conditions. Failure to do so may result in rejection of the bid unless the bidder's full compliance with those documents is indicated elsewhere within the bidder's response.
- f. Faxed and e-mail no-bid notifications shall be accepted.

6. PREFERENCES

- a. In the evaluation of bids, preferences shall be applied in accordance with chapter 34, RSMo. Contractors should apply the same preferences in selecting subcontractors.
- b. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri and to all firms, corporations or individuals doing business as Missouri firms, corporations or individuals. Such preference shall be given when quality is equal or better and delivered price is the same or less.
- c. In accordance with Executive Order 05-30, contractors are encouraged to utilize certified minority and women-owned businesses in selecting subcontractors.
- d. In the evaluation of bids, a service-disabled veteran business preference shall be applied in accordance with section 34.074, RSMo.

7. EVALUATION/AWARD

- a. Any clerical error, apparent on its face, may be corrected by the buyer before contract award. Upon discovering an apparent clerical error, the buyer shall contact the bidder and request clarification of the intended bid. The correction shall be incorporated in the notice of award. Examples of apparent clerical errors are: 1) misplacement of a decimal point; and 2) obvious mistake in designation of unit.
- b. Any pricing information submitted by a bidder shall be subject to evaluation if deemed by the DED to be in the best interest of the State of Missouri.
- c. The bidder is encouraged to propose price discounts for prompt payment or propose other price discounts that would benefit the State of Missouri. However, unless otherwise specified in the RFQ, pricing shall be evaluated at the maximum potential financial liability to the State of Missouri.
- d. Awards shall be made to the bidder whose bid (1) complies with all mandatory specifications and requirements of the RFQ and (2) is the lowest and best bid, considering price, responsibility of the bidder, and all other evaluation criteria specified in the RFQ and (3) complies with sections 34.010 and 34.070, RSMo, and Executive Order 04-09.

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- e. In the event all bidders fail to meet the same mandatory requirement in an RFQ, DED reserves the right, at its sole discretion, to waive that requirement for all bidders and to proceed with the evaluation. In addition, the DED reserves the right to waive any minor irregularity or technicality found in any individual bid.
- f. The DED reserves the right to reject any and all bids. When all bids are non-responsive or otherwise unacceptable and circumstances do not permit a rebid, DED may negotiate for the required supplies.
- g. When evaluating a bid, the State of Missouri reserves the right to consider relevant information and fact, whether gained from a bid, from a bidder, from bidder's references, or from any other source.
- h. Any information submitted with the bid, regardless of the format or placement of such information, may be considered in making decisions related to the responsiveness and merit of a bid and the award of a contract.
- i. Any award of a contract shall be made by notification from the DED to the successful bidder. The DED reserves the right to make awards by item, group of items, or an all or none basis. The grouping of items awarded shall be determined by DED based upon factors such as item similarity, location, administrative efficiency, or other considerations in the best interest of the State of Missouri.
- j. All bids and associated documentation will be considered open records pursuant to section 610.021, RSMo.
- k. The DED maintains images of all bid file material for review. Bidders who include an e-mail address with their bid will be notified of the award results via e-mail.
- l. The DED reserves the right to request clarification of any portion of the bidder's response in order to verify the intent of the bidder. The bidder is cautioned, however, that its response may be subject to acceptance or rejection without further clarification.
- m. Any bid award protest must be received within ten (10) calendar days after the date of award in accordance with the requirements of 1 CSR 40-1.050 (10).
- n. The final determination of contract award(s) shall be made by DED.

8. CONTRACT/PURCHASE ORDER

- a. By submitting a bid, the bidder agrees to furnish any and all equipment, supplies and/or services specified in the RFQ, at the prices quoted, pursuant to all requirements and specifications contained therein.
- b. A binding contract shall consist of: (1) the RFQ and any amendments thereto, (2) the contractor's response (bid) to the RFQ, (3) clarification of the bid, if any, and (4) DED's acceptance of the response (bid) by "notice of award" or by "purchase order." All Exhibits and Attachments included in the RFQ shall be incorporated into the contract by reference.
- c. A notice of award issued by the State of Missouri does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services for the State of Missouri, the contractor must receive a properly authorized purchase order or other form of authorization given to the contractor at the discretion of the state agency.
- d. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein. Any change to the contract, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the contractor and the DED or by a modified purchase order prior to the effective date of such modification. The contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification to the contract.

9. INVOICING AND PAYMENT

- a. The State of Missouri does not pay state or federal taxes unless otherwise required under law or regulation.
- b. The statewide financial management system has been designed to capture certain receipt and payment information. For each purchase order received, an invoice must be submitted that references the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.
- c. The contractor shall not transfer any interest in the contract, whether by assignment or otherwise, without the prior written consent of the DED.
- d. Payment for all equipment, supplies, and/or services required herein shall be made in arrears unless otherwise indicated in the RFQ.
- e. The State of Missouri assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any unauthorized quantity is subject to the State's rejection and shall be returned at the contractor's expense.

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- f. All invoices for equipment, supplies, and/or services purchased by the State of Missouri shall be subject to late payment charges as provided in section 34.055, RSMo.
- g. The State of Missouri reserves the right to purchase goods and services using the state purchasing card.

10. DELIVERY

Time is of the essence. Deliveries of equipment, supplies, and/or services must be made no later than the time stated in the contract or within a reasonable period of time, if a specific time is not stated.

11. INSPECTION AND ACCEPTANCE

- a. No equipment, supplies, and/or services received by an agency of the state pursuant to a contract shall be deemed accepted until the agency has had reasonable opportunity to inspect said equipment, supplies, and/or services.
- b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.
- c. The State of Missouri reserves the right to return any such rejected shipment at the contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.
- d. The State of Missouri's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the state may have.

12. WARRANTY

- a. The contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by the DED, (2) be fit and sufficient for the purpose expressed in the RFQ, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.
- b. Such warranty shall survive delivery and shall not be deemed waived either by reason of the state's acceptance of or payment for said equipment, supplies, and/or services.

13. CONFLICT OF INTEREST

- a. Officials and employees of the state agency, its governing body, or any other public officials of the State of Missouri must comply with sections 105.452 and 105.454, RSMo, regarding conflict of interest.
- b. The contractor hereby covenants that at the time of the submission of the bid the contractor has no other contractual relationships which would create any actual or perceived conflict of interest. The contractor further agrees that during the term of the contract neither the contractor nor any of its employees shall acquire any other contractual relationships which create such a conflict.

14. REMEDIES AND RIGHTS

- a. No provision in the contract shall be construed, expressly or implied, as a waiver by the State of Missouri of any existing or future right and/or remedy available by law in the event of any claim by the State of Missouri of the contractor's default or breach of contract.
- b. The contractor agrees and understands that the contract shall constitute an assignment by the contractor to the State of Missouri of all rights, title and interest in and to all causes of action that the contractor may have under the antitrust laws of the United States or the State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or procured by the contractor in the fulfillment of the contract with the State of Missouri.

15. CANCELLATION OF CONTRACT

- a. In the event of material breach of the contractual obligations by the contractor, the DED may cancel the contract. At its sole discretion, the DED may give the contractor an opportunity to cure the breach or to explain how the breach will be cured. The actual cure must be completed within no more than 10 working days from notification, or at a minimum the contractor must provide DED within 10 working days from notification a written plan detailing how the contractor intends to cure the breach.

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- b. If the contractor fails to cure the breach or if circumstances demand immediate action, the DED will issue a notice of cancellation terminating the contract immediately.
- c. If the DED cancels the contract for breach, the DED reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the DED deems appropriate and charge the contractor for any additional costs incurred thereby.
- d. The contractor understands and agrees that funds required to fund the contract must be appropriated by the General Assembly of the State of Missouri for each fiscal year included within the contract period. The contract shall not be binding upon the state for any period in which funds have not been appropriated, and the state shall not be liable for any costs associated with termination caused by lack of appropriations.

16. COMMUNICATIONS AND NOTICES

Any notice to the bidder/contractor shall be deemed sufficient when deposited in the United States mail postage prepaid, transmitted by facsimile, transmitted by e-mail or hand-carried and presented to an authorized employee of the bidder/contractor.

17. BANKRUPTCY OR INSOLVENCY

- a. Upon filing for any bankruptcy or insolvency proceeding by or against the contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, the contractor must notify the DED immediately.
- b. Upon learning of any such actions, the DED reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the contractor responsible for damages.

18. INVENTIONS, PATENTS AND COPYRIGHTS

The contractor shall defend, protect, and hold harmless the State of Missouri, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the contractor's performance or products produced under the terms of the contract.

19. NON-DISCRIMINATION AND AFFIRMATIVE ACTION

In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall agree not to discriminate against recipients of services or employees or applicants for employment on the basis of race, color, religion, national origin, sex, age, disability, or veteran status unless otherwise provided by law. If the contractor or subcontractor employs at least 50 persons, they shall have and maintain an affirmative action program which shall include:

- a. A written policy statement committing the organization to affirmative action and assigning management responsibilities and procedures for evaluation and dissemination;
- b. The identification of a person designated to handle affirmative action;
- c. The establishment of non-discriminatory selection standards, objective measures to analyze recruitment, an upward mobility system, a wage and salary structure, and standards applicable to layoff, recall, discharge, demotion, and discipline;
- d. The exclusion of discrimination from all collective bargaining agreements; and
- e. Performance of an internal audit of the reporting system to monitor execution and to provide for future planning.

If discrimination by a contractor is found to exist, the DED shall take appropriate enforcement action which may include, but not necessarily be limited to, cancellation of the contract, suspension, or debarment by the DED until corrective action by the contractor is made and ensured, and referral to the Attorney General's Office, whichever enforcement action may be deemed most appropriate.

20. AMERICANS WITH DISABILITIES ACT

In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall comply with all applicable requirements and provisions of the Americans with Disabilities Act (ADA).

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21. FILING AND PAYMENT OF TAXES

The commissioner of administration and other agencies to which the state purchasing law applies shall not contract for goods or services with a vendor if the vendor or an affiliate of the vendor makes sales at retail of tangible personal property or for the purpose of storage, use, or consumption in this state but fails to collect and properly pay the tax as provided in chapter 144, RSMo. For the purposes of this section, "affiliate of the vendor" shall mean any person or entity that is controlled by or is under common control with the vendor, whether through stock ownership or otherwise. Therefore bidder's failure to maintain compliance with chapter 144, RSMo, may eliminate their bid from consideration for award.

22. TITLES

Titles of paragraphs used herein are for the purpose of facilitating reference only and shall not be construed to infer a contractual construction of language.

Revised 08-28-08